

**SUPREME COURT MINUTES
TUESDAY, FEBRUARY 24, 2004
SAN FRANCISCO, CALIFORNIA**

S026872

PEOPLE v. VALDEZ (ALFREDO)

Rehearing denied

Kennard, J., Chin, J., and Brown, J., are of the
opinion the petition should be granted.

S122058

C042437 Third Appellate District

CALIFORNIA STATE PERSONNEL BOARD v.
CALIF. STATE EMPLOYEES ASSN., LOCAL 1000
Petition for review granted (civil case)

Votes: George, C.J., Kennard, Baxter,
Werdegar, Chin, Brown, and Moreno, JJ.

S121100B159949 Second Appellate District,
Division Six

CALHOUN (JESSE J.) ON H.C.

Petition for review granted; transferred to CA 2/6

The above-entitled matter is transferred to the
Court of Appeal, Second Appellate District,
Division Six, with directions to vacate its
decision and to reconsider the cause in light of
In re Qawi (2004) 32 Cal.4th 1. (Cal. Rules of
Court, rule 29.3(d).)

Votes: George, C.J., Kennard, Baxter,
Werdegar, Chin, Brown, and Moreno, JJ.

S122572G033454 Fourth Appellate District,
Division Three

CRUZ v. S.C. (BRISTOL PARK MEDICAL GROUP)

Petition for review granted; transferred to CA 4/3

The matter is transferred to the Court of Appeal,
Fourth Appellate District, Division Three, with
directions to vacate its order denying mandate
and to issue an alternative writ to be heard
before that court when the proceeding is ordered
on calendar.

Votes: George, C.J., Kennard, Baxter,
Werdegar, Chin, Brown, and Moreno, JJ.

S104412

A093509 First Appellate District,
Division Four

PACIFIC GAS & ELECTRIC CO. v. S.C. (EMERY)
Dismissal order filed

In light of the settlement of the case, review in the above-entitled matter is dismissed. (Cal. Rules of Court, rule 29.3(b).)

Chin, J., was recused and did not participate.

Votes: George, C.J., Kennard, Baxter,
Werdegar, Brown, and Moreno, JJ.

S108831

D040088 Fourth Appellate District,
Division One

PACIFIC BELL v. S.C. (UTILITY CONSUMERS'
ACTION NETWORK)
Dismissal order filed

Review in the above-entitled matter is dismissed. (Cal. Rules of Court, rule 29.3(b).) The previously-ordered stay of further proceedings in San Diego Superior Court case number GIC 774780, entitled *The Utility Consumers' Action Network v. Pacific Bell*, is vacated.

Votes: George, C.J., Kennard, Baxter,
Werdegar, Chin, Brown, and Moreno, JJ.

S115219

B157914 Second Appellate District,
Division Eight

DEGREZIA v. S.C. (BLUE CROSS)
Transferred to CA 2/8 after hold

The above-entitled matter is transferred to the Court of Appeal, Second Appellate District, Division Eight, with directions to vacate its decision and to reconsider the cause in light of *St. Agnes Medical Center v. PacificCare of California* (2003) 31 Cal.4th 1187. (Cal. Rules of Court, rule 29.3(d).)

Votes: George, C.J., Kennard, Baxter,
Werdegar, Chin, Brown, and Moreno, JJ.

S117248

G029261 Fourth Appellate District,
Division Three

ANAHEIM, CITY OF v. PACIFIC BELL TEL. CO.
Transferred to CA 4/3 after hold

The above-entitled matter is transferred to the Court of Appeal, Fourth Appellate District, Division Three, with directions to vacate its decision and to reconsider the cause in light of *People ex rel. Orloff v. Pacific Bell* (2003) 31 Cal. 4th 1132. (Cal. Rules of Court, rule 29.3(d).)

Votes: George, C.J., Kennard, Baxter, Werdegarr, Chin, Brown, and Moreno, JJ.

S117892

CLAY (ROY) ON H.C.
Petition ordered withdrawn

pursuant to written request of petitioner.

S118954

ROGERS (ESAU) ON H.C.
Petition ordered withdrawn

pursuant to written request of petitioner.

S120952

B163924 Second Appellate District,
Division Five

PEOPLE v. MACIEL
Petition for review denied

S121069

B159352 Second Appellate District,
Division Three

POLLOCK v. UNIVERSITY OF SOUTHERN CALIF.
Petition for review denied

Request for judicial notice granted.

S121128

C041900 Third Appellate District

ROBERTS v. LOMANTO
Petition for review denied

S121138

G030233 Fourth Appellate District,
Division Three

REISWIG v. FERENTZ
Petition for review denied

S121140

D040571 Fourth Appellate District,
Division One

PEOPLE v. WEST

Petition for review & publication request denied

S121153

B168006 Second Appellate District,
Division Five

HAMILTON (MICHAEL) ON H.C.

Petition for review denied

Brown, J., was recused and did not participate.

S121188

B163269 Second Appellate District,
Division Five

PEOPLE v. BRITTAIN

Petition for review denied

S121198

B158361 Second Appellate District,
B161832 Division Five

LIGHT v. PROVIDENT LIFE & ACCIDENT INS. CO.

Petitions for review & publication request denied

S121292

G030056 Fourth Appellate District,
Division Three

MITSUBISHI MATERIALS v. S.C. (DILLMAN)

Petition for review denied

S121331

D041791 Fourth Appellate District,
D041791 Division One

J P MORGAN v. S.C. (HELIOTROPE GENERAL INC)

Petition for review denied

S121358

D040279 Fourth Appellate District,
Division One

MARTINEZ v. METABOLIFE INTERNATIONAL

Petition for review denied

S121363

G030006 Fourth Appellate District,
Division Three

CAMERON, MARRIAGE OF

Petitions for review & publication request denied

S121369

D041783 Fourth Appellate District,
Division One

GLOBAL MINERALS & METALS CORP v. S.C.
(NATIONAL METALS INC.)

Petition for review denied

S121413

H023236 Sixth Appellate District

PEOPLE v. MELGOZA

Petition for review denied

S121482

B161523 Second Appellate District,
Division One

SARKIS v. CALIFORNIA ASSOCIATION OF
LICENSED INVESTIGATORS INC.
Petition for review denied

S121495

G028930 Fourth Appellate District,
Division Three

PEOPLE v. BECHLER
Petition for review denied

S121570

G029633 Fourth Appellate District,
Division Three

DEHARO v. WHITE
Petition for review & publication request denied

S121591

B169324 Second Appellate District,
Division Five

PEOPLE v. WAY
Petition for review denied

S121603

A101174 First Appellate District,
A103895 Division Three

PEOPLE v. USSERY
Petition for review denied

S121636

B162488 Second Appellate District,
Division Four

PEOPLE v. BURRIS
Petition for review denied

S121689

A097743 First Appellate District,
Division Five

PEOPLE v. HUERTA
Petition for review denied

S121696

G030325 Fourth Appellate District,
Division Three

RUS, MILIBAND & SMITH v. CONKLE & OLESTEN
Petition for review denied

S121748

G028909 Fourth Appellate District,
Division Three

RUS, MILIBAND & SMITH v. CONKLE & OLESTEN
Petition for review denied

S121752

E034924 Fourth Appellate District,
Division Two

HARDING v. S.C. (MURRELL)
Petition for review denied

S121757

E032628 Fourth Appellate District,
Division Two

PEOPLE v. NELSON

Petition for review denied

S121779

F040806 Fifth Appellate District

PEOPLE v. TUCKER

Petition for review denied

S121802

B157200 Second Appellate District,
Division Four

GUIRAGOSIAN v. SOUTHERN CALIF EDISON

Petition for review denied

S121832

H025963 Sixth Appellate District

T. (PAUL), IN RE

Petition for review denied

S121835

H024810 Sixth Appellate District

PEOPLE v. PERRELL

Petition for review denied

S121852

E031679 Fourth Appellate District,
E033289 Division Two

PEOPLE v. HAKIMIAN

Petition for review denied

S121885

A099614 First Appellate District,
Division One

PEOPLE v. GREEN

Petition for review denied

S121953

B167176 Second Appellate District,
Division One

PEOPLE v. SOLORZANO

Petition for review denied

Kennard, J., is of the opinion the petition should
be granted.

S121961

H025139 Sixth Appellate District

PEOPLE v. KUMRE

Petition for review denied

S121962

E033155 Fourth Appellate District,
Division Two

PEOPLE v. ORTEGA

Petition for review denied

S121979

F042292 Fifth Appellate District

PEOPLE v. MUTHANA

Petition for review denied

Baxter, J., was recused and did not participate.

S121985A101522 Second Appellate District,
Division Five

PEOPLE v. WHITE

Petition for review denied

S121987

F040258 Fifth Appellate District

PEOPLE v. HENDRIX

Petition for review denied

S121993

F041445 Fifth Appellate District

PEOPLE v. GARZA

Petition for review denied

S121994B164977 Second Appellate District,
Division Six

PEOPLE v. CALLOWAY

Petition for review denied

S121996B163696 Second Appellate District,
Division Two

PEOPLE v. CHIO

Petition for review denied

S121997

C045415 Third Appellate District

WRIGHT v. WCAB (WGG ENTERPRISES INC.,)

Petition for review denied

S122008G031098 Fourth Appellate District,
Division Three

PEOPLE v. SOLOMONA

Petition for review denied

S122012

H026829 Sixth Appellate District

GOLIN v. S.C. (DEPT OF DEVELOPMENTAL SVCS)

Petition for review denied

S122013

C041032 Third Appellate District

PEOPLE v. SMITH

Petition for review denied

S122014

B164430 Second Appellate District,
Division Six

PEOPLE v. WASHINGTON

Petition for review denied

S122015

F041707 Fifth Appellate District

PEOPLE v. LOGAN

Petition for review denied

Kennard, J., is of the opinion the petition should
be granted.

S122017

F041360 Fifth Appellate District

PEOPLE v. MAESTAS

Petition for review denied

Baxter, J., was recused and did not participate.

S122021

H024836 Sixth Appellate District

PEOPLE v. SOLANO

Petition for review denied

S122029

A099056 First Appellate District,
Division Two

PEOPLE v. SARMIENTO

Petition for review denied

S122036

A102067 First Appellate District,
Division Four

PEOPLE v. PAUL

Petition for review denied

S122042

H025101 Sixth Appellate District

PEOPLE v. CARUTHERS

Petition for review denied

S122044

B164705 Second Appellate District,
Division Five

PEOPLE v. ONOFRE

Petitions for review denied

S122047

E033955 Fourth Appellate District,
Division Two

G. (PATRICIA), IN RE

Petition for review denied

S122050

F040286 Fifth Appellate District

PEOPLE v. HUNT

Petition for review denied

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| S122052 F041546 Fifth Appellate District | PEOPLE v. GONZALEZ Petition for review denied |
| S122056 F039459 Fifth Appellate District F040470 | PEOPLE v. VERNON Petition for review denied |
| S122062 F042195 Fifth Appellate District | PEOPLE v. MENDOZA Petition for review denied |
| S122064 F041190 Fifth Appellate District | PEOPLE v. CORONADO Petition for review denied |
| S122067 A100751 First Appellate District, Division Four | PEOPLE v. BANKS Petition for review denied |
| S122069 E033464 Fourth Appellate District, Division Two | PEOPLE v. GARCIA Petition for review denied |
| S122071 C042577 Third Appellate District | PEOPLE v. WOOD Petition for review denied |
| S122072 E033574 Fourth Appellate District, Division Two | PEOPLE v. TAFOYA Petition for review denied |
| S122077 G029882 Fourth Appellate District, Division Three | PEOPLE v. ADAME Petition for review denied |
| S122079 B160772 Second Appellate District, Division Five | PEOPLE v. SILVA Petition for review denied |

S122080

B157801 Second Appellate District,
B159406 Division Four
B161857
B162775

WELLS v. DAILEY

Petition for review denied

S122083

E033840 Fourth Appellate District,
Division Two

PEOPLE v. CABRAL

Petition for review denied

S122088

A102767 First Appellate District,
Division Four

PEOPLE v. STITH

Petition for review denied

S122095

H025559 Sixth Appellate District

PEOPLE v. GARCIA

Petition for review denied

S122096

A100259 First Appellate District,
Division Three

PEOPLE v. WHITE

Petition for review denied

S122098

G031245 Fourth Appellate District,
Division Three

HUFSTEDLER, MARRIAGE OF

Petition for review denied

S122099

C043726 Third Appellate District

PEOPLE v. HOLMES

Petition for review denied

S122102

B163940 Second Appellate District,
Division Five

PEOPLE v. DIEROLF

Petition for review denied

S122103

G030867 Fourth Appellate District,
Division Three

PEOPLE v. PUGA

Petition for review denied

S122104

D041828 Fourth Appellate District,
Division One

PEOPLE v. PINEDA-DUQUE

Petition for review denied

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|---|---|
| S122105 C042157 Third Appellate District | PEOPLE v. EMERY Petition for review denied |
| S122112 C042047 Third Appellate District | PEOPLE v. BURNETT Petition for review denied |
| S122118 C041305 Third Appellate District | PEOPLE v. DUNCAN Petition for review denied |
| S122126 B160999 Second Appellate District, Division Four | PEOPLE v. VELASQUEZ Petition for review denied |
| S122130 B162366 Second Appellate District, Division Five | PEOPLE v. CHAVEZ Petition for review denied |
| S122132 E034627 Fourth Appellate District, Division Two | UNIVERSITY OF LA VERNE v. S.C. (GROTKE) Petition for review denied |
| S122136 D040887 Fourth Appellate District, Division One | PEOPLE v. PETERSEN Petition for review denied |
| S122143 F041793 Fifth Appellate District | PEOPLE v. ROBINSON Petition for review denied |
| S122144 H025499 Sixth Appellate District | FULKERSON v. COUNTY OF SANTA CRUZ Petition for review & publication request denied |
| S122155 D039147 Fourth Appellate District, Division One | PEOPLE v. ABELAR Petition for review denied |

S122156B169890 Second Appellate District,
Division ThreeLOS ANGELES TIMES v. S.C. (PEOPLE)
Petition for review deniedGeorge, C.J., is of the opinion the petition
should be granted.**S122181**D041040 Fourth Appellate District,
Division OnePEOPLE v. ABEL
Petition for review denied**S110763**GUTIERREZ (ERNESTO C.) ON H.C.
Petition for writ of habeas corpus denied**S115849**PETE (STEVE) ON H.C.
Petition for writ of habeas corpus denied**S115879**NGUYEN (VU) ON H.C.
Petition for writ of habeas corpus denied**S115882**SMITH (JAMES E.) ON H.C.
Petition for writ of habeas corpus denied with citation(s)(See *In re Robbins* (1998) 18 Cal.4th 770, 780;
In re Clark (1993) 5 Cal.4th 750; *In re Swain*
(1949) 34 Cal.2d 300, 304.)**S115886**TRUJILLO (VALENTIN) ON H.C.
Petition for writ of habeas corpus denied**S115918**PADILLA (MARIO GARCIA) ON H.C.
Petition for writ of habeas corpus denied with citation(s)(See *In re Swain* (1949) 34 Cal.2d 300, 304;
People v. Duvall (1995) 9 Cal.4th 464, 474; *In re Robbins* (1998) 18 Cal.4th 770, 780.)**S116053**LAPONTE (JOHN) ON H.C.
Petition for writ of habeas corpus denied with citation(s)(See *People v. Serrano* (1992) 11 Cal.App.4th
1672, 1677-1678.)

S116157BAYLOR (RONNIE EARL) ON H.C.
Petition for writ of habeas corpus denied**S116308**G031814 Fourth Appellate District,
Division ThreePROTOPAPPAS (TONY) ON H.C.
Petition for writ of habeas corpus denied**S116330**TEDESCHI (MARK V.) ON H.C.
Petition for writ of habeas corpus denied**S116403**JACKSON (CHRISTOPHER) ON H.C.
Petition for writ of habeas corpus denied with citation(s)

(See *In re Robbins* (1998) 18 Cal.4th 770, 780;
In re Swain (1949) 34 Cal.2d 300, 304; *People*
v. Duvall (1995) 9 Cal.4th 464, 474; *In re*
Waltreus (1965) 62 Cal.2d 218; *In re Dixon*
(1953) 41 Cal.2d 756; *In re Lindley* (1947) 29
Cal.2d 709.)

S116412WILLOVER (NORMAN F.) ON H.C.
Petition for writ of habeas corpus denied**S116415**FONOTI (VENI WAYNE) ON H.C.
Petition for writ of habeas corpus denied with citation(s)

(See *In re Robbins* (1998) 18 Cal.4th 770, 780;
In re Clark (1993) 5 Cal.4th 750; *In re Swain*
(1949) 34 Cal.2d 300, 304.)

S116417SMITH (DWAYNE) ON H.C.
Petition for writ of habeas corpus denied with citation(s)

(See *In re Swain* (1949) 34 Cal.2d 300, 304;
People v. Duvall (1995) 9 Cal.4th 464, 474.)

S116420GILBERT (GARY L.) ON H.C.
Petition for writ of habeas corpus denied

S116431

ROSALES (GILBERT) ON H.C.

Petition for writ of habeas corpus denied with citation(s)

(See *In re Swain* (1949) 34 Cal.2d 300, 304;
People v. Duvall (1995) 9 Cal.4th 464, 474.)

S116496

HARRIS (WAYNE J.) ON H.C.

Petition for writ of habeas corpus denied with citation(s)

(See *In re Clark* (1993) 5 Cal.4th 750; *In re Robbins* (1998) 18 Cal.4th 770, 780; *In re Waltreus* (1965) 62 Cal.2d 218; *In re Miller* (1941) 17 Cal.2d 734; *In re Dixon* (1953) 41 Cal.2d 756.)

S116519

ETHERIDGE (DANIEL) ON H.C.

Petition for writ of habeas corpus denied with citation(s)

(See *In re Robbins* (1998) 18 Cal.4th 770, 780;
In re Clark (1993) 5 Cal.4th 750; *In re Swain* (1949) 34 Cal.2d 300, 304.)

S116536

JOHNSON (EDDIE L.) ON H.C.

Petition for writ of habeas corpus denied with citation(s)

(See *People v. Duvall* (1995) 9 Cal.4th 464,
474.)

S116542

McGATHON (JOHN R.) ON H.C.

Petition for writ of habeas corpus denied with citation(s)

(See *In re Robbins* (1998) 18 Cal.4th 770, 780;
In re Clark (1993) 5 Cal.4th 750; *In re Swain* (1949) 34 Cal.2d 300, 304.)

S116653

REDD (PAUL A.) ON H.C.

Petition for writ of habeas corpus denied with citation(s)

(See *In re Robbins* (1998) 18 Cal.4th 770, 780;
In re Clark (1993) 5 Cal.4th 750; *In re Miller* (1941) 17 Cal.2d 734.)

S116708

SMITH (DWAYNE) ON H.C.

Petition for writ of habeas corpus denied with citation(s)

(See *In re Swain* (1949) 34 Cal.2d 300, 304;
People v. Duvall (1995) 9 Cal.4th 464, 474.)

S116798

McGREW (STEVEN LYLE) ON H.C.

Petition for writ of habeas corpus denied

S116829

GUARDADO (PAUL ALBERT) ON H.C.

Petition for writ of habeas corpus denied with citation(s)

(See *In re Clark* (1993) 5 Cal.4th 750; *In re Robbins* (1998) 18 Cal.4th 770, 780; *In re Miller* (1941) 17 Cal.2d 734; *In re Dixon* (1953) 41 Cal.2d 756; *People v. Chi Ko Wong* (1976) 18 Cal.3d 698, 712-714.)

S116953

LOPEZ (RONNIE) ON H.C.

Petition for writ of habeas corpus denied with citation(s)

(See *In re Swain* (1949) 34 Cal.2d 300, 304;
People v. Duvall (1995) 9 Cal.4th 464, 474.)

S117023

GARMA (DAVID) ON H.C.

Petition for writ of habeas corpus denied with citation(s)

(See *In re Swain* (1949) 34 Cal.2d 300, 304;
People v. Duvall (1995) 9 Cal.4th 464, 474.)

S117855

PADILLA (MARIO G.) ON H.C.

Petition for writ of habeas corpus denied

S120000

OATES (WILBUR M.) ON H.C.

Petition for writ of habeas corpus denied with citation(s)

(See *In re Swain* (1949) 34 Cal.2d 300, 304;
People v. Duvall (1995) 9 Cal.4th 464, 474.)

S121027

BARNETT (LEE MAX) ON H.C.
Petition for writ of habeas corpus denied

Kennard, J., was recused and did not participate.

S121032

BARNETT (LEE MAX) ON H.C.
Petition for writ of habeas corpus denied

Kennard, J., was recused and did not participate.

S121035

BARNETT (LEE MAX) ON H.C.
Petition for writ of habeas corpus denied

Kennard, J., was recused and did not participate.

S122419

LUCKETT (JOHN) ON H.C.
Petition for writ of habeas corpus and

application for stay denied. (See *In re Dixon*
(1953) 41 Cal.2d 756.)

S122437

HARRIS (ARTHUR) ON H.C.
Petition for writ of habeas corpus denied

S122575

MILINICH (JEFFERY) ON H.C.
Petition for writ of habeas corpus denied

S122644

HAKIMIAN (BIJAN) ON H.C.
Petition for writ of habeas corpus denied

S121853

F042089 Fifth Appellate District

PROTECT OUR WATER v. COUNTY OF
STANISLAUS (DIABLO GRANDE)
Publication request denied (case closed)

Baxter, J., was recused and did not participate.

S121874

E032675 Fourth Appellate District,
Division Two

PEOPLE v. WOLFE
Depublication request denied (case closed)

S119201 First Appellate District,
Division Two

IN RE VITAMIN CASES
Depublication request denied (case closed)

S122023
B168274 Second Appellate District,
Division Six

PEOPLE v. HERNANDEZ
Publication request denied (case closed)

S122049
B165746 Second Appellate District,
Division One

J.K., IN RE
Publication request denied (case closed)

S122503
C042237 Third Appellate District

PEOPLE v. GALAVIZ
Publication request denied (case closed)

S121532
B167044 Second Appellate District,
Division Seven

JEVNE v. S.C. (JB OXFORD HOLDINGS)
Time extended to grant or deny review
to March 25, 2004.

S121609
E034822 Fourth Appellate District,
Division Two

SUMMERS (GEORGE) ON H.C.
Time extended to grant or deny review
to April 2, 2004

S114888
F038004 Fifth Appellate District

PARNELL v. ADVENTIST HEALTH SYSTEM/WEST
Extension of time granted

to March 29, 2004 for Catholic Healthcare West
to file the amicus curiae brief. No further
extensions of time will be granted. An answer
to the amicus curiae brief may be served & filed
by any party within 20 days of the filing of the
brief.

S036450

PEOPLE v. KOONTZ (HERBERT H.)
Motion for access to sealed record granted

Good cause appearing, appellant's Motion to
Authorize Inspection and Copying of Certain
Confidential Materials, filed on January 29,

2004, is granted. Appellant must supply the personnel and equipment necessary to undertake this review and copying of the records, which must occur on the premises of the court.

S056391

PEOPLE v. WILLIAMS (BOB)

Motion for access to sealed record granted

Appellant's "Motion to Unseal the Record" is granted in part and denied in part.

The motion is granted to the following extent:

The Clerk is directed to unseal the following portions of the record on appeal herein, and to provide copies thereof to appellant and respondent:

1. Second Supplemental Clerk's Transcript, pages 12 through 21.
2. Reporter's Transcript (Jan. 17, 1996) in its entirety, comprising cover through page 15.
3. "Supplemental Declaration in Support of Motion for Continuance," executed by Dominic P. Eyherabide on December 3, 1995, comprising pages 1 through 4; and "Confidential Supplemental Declaration in Support of Motion for Continuance [Sealing Requested]," filed on December 8, 1995, comprising pages 1 through 6, with "Proposed Timetable" on pages 3 through 6.
4. Reporter's Transcript (Apr. 3 & 4, 1996) in its entirety, comprising cover through page 6.
5. Reporter's Transcript, Volume IV (May 2, 1996), in its entirety, comprising cover through page 8.

In all other respects, the motion is denied.

On the court's own motion, the Clerk is directed to strike the filing of appellant's opening brief. Appellant in turn is directed to serve and file a new opening brief that does not disclose any information contained in any sealed portion of the record on appeal (see appellant's opening brief, p. 83), on or before March 5, 2004. Appellant is further directed to take all steps necessary and appropriate to cure the disclosure of such information in his original opening brief on or before March 5, 2004.

S010334**PEOPLE v. SCOTT (JAMES ROBERT)**
Order filed

Good cause appearing, the application of appointed counsel for permission to withdraw as attorney of record for condemned prisoner James Robert Scott, filed January 23, 2004, is granted.

The order appointing John W. Clark as counsel of record for condemned prisoner James Robert Scott, filed March 14, 1991, is hereby vacated.

The Federal Public Defender for the Central District of California is hereby appointed attorney of record for condemned prisoner James Robert Scott. Counsel is appointed for purposes of all postconviction proceedings in this court, and for subsequent proceedings, including the preparation and filing of a petition for clemency with the Governor of California, as appropriate.

S040471**PEOPLE v. POLLOCK (MILTON RAY)**
Order filed

The request of appellant for permission to be represented by two counsel at oral argument is granted.

S079656**BACIGALUPO (MIGUEL A.) ON H.C.**
Order filed

Petitioner's motion for Disqualification of the Santa Clara County Bench or, in the Alternative, for a Change of Venue is treated as a motion to vacate this court's orders directing the appointment of a referee from the Santa Clara Superior Court.

This Court's orders directing the Honorable Thomas P. Hansen, Presiding Judge of the Superior Court of California, County of Santa Clara to select a judge of that court to sit as referee and appointing Judge Kevin Murphy of that court as referee are vacated.

The Honorable Laurel S. Brady, Presiding

Judge of the Superior Court of California, County of Contra Costa is directed to select a judge of that county to sit as referee in this matter and to promptly notify this court of that selection. After appointment by this court, the referee is to take evidence and make findings of fact on the following questions regarding the case of *People v. Miguel Angel Bacigalupo* (Santa Clara Superior Court No. 93351; Judge Thomas C. Hastings):

1. What information did the prosecution obtain before or during petitioner's capital trial regarding a possible connection between one Jose Luis Angarita and the murders of Orestes and Jose Luis Guerrero? What, if any, of this information was given to the defense?

2. Did the confidential informant who testified at an ex parte hearing on September 6, 1985, tell a district attorney investigator or other member of law enforcement connected with this case that the informant had witnessed petitioner's meeting with Angarita and others a day or so before the murders? If so, did the prosecution convey this information to the defense? If the confidential informant told a district attorney investigator or other member of law enforcement about a meeting between petitioner and Angarita, was this information reliable?

3. Did the prosecution from any source, including those specified below, obtain any information that it did not provide to the defense that would have supported petitioner's claim to the police that he had killed Orestes and Jose Luis Guerrero acting under the Colombian Mafia's death threats to himself or his family?

(a) Interviews of Ronnie Nance or Steve Price?

(b) Interviews of the confidential informant?

(c) In connection with federal prosecutions for which the confidential informant furnished evidence?

4. If the prosecution withheld from the defense information (a) about a possible connection between Jose Luis Angarita and the murders of Orestes and Jose Luis Guerrero; or (b) about a meeting between petitioner, Angarita

and others a day or so before the killings; or (c) that would have supported petitioner's claim to police that he killed the Guerrero brothers acting under death threats to him and his family, what penalty phase evidence not otherwise known or available to the defense at the time of trial would have come to light had the withheld information been disclosed?

5. Did a district attorney investigator or other member of law enforcement connected with this case instruct the confidential informant to withhold information at the ex parte hearing held on September 6, 1985? If so, what information, if any, did the confidential informant withhold at that ex parte hearing? Did the district attorney investigator testify truthfully at the September 6, 1985, ex parte hearing?

6. Is it likely that disclosure of the confidential informant's identity to the defense would have led to evidence not otherwise known or available to the defense at the time of trial that would have supported petitioner's claim to have acted under death threats from the Colombian Mafia? If so, what is that evidence?

7. At the time of trial, what information was known to the prosecution that would have supported a theory that petitioner was hired to commit the murders or that otherwise could have been used to impeach a penalty phase case in mitigation based on petitioner's having acted under duress?

S122663

F040732 Fifth Appellate District
F040879

SIMON v. WALT DISNEY WORLD
Order filed

It is hereby ordered that Appellants' Application to Attach Exhibit 2 to the Petition for Review is hereby DENIED.

Bar Misc. 4186

IN THE MATTER OF THE APPLICATION OF THE
COMMITTEE OF BAR EXAMINERS OF THE
STATE BAR OF CALIFORNIA FOR ADMISSION
OF ATTORNEYS

The written motion of the Committee of Bar
Examiners that the following named
applicants, who have fulfilled the
requirements for admission to practice law
in the State of California, be admitted to the
practice of law in this state is hereby
granted, with permission to the applicants to
take the oath before a competent officer at
another time and place:
(LIST OF NAMES ATTACHED TO
ORIGINAL ORDER)

